

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION**

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**INLAND FAMILY  
PRACTICE CENTER, LLC,**

**Plaintiff**

**V.**

**ALEX M. AZAR, II,  
Secretary of the United States Department  
of Health and Human Services,**

**Defendant**

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**Civil Action No. 2:18-cv-00140-KS-MTP**

**MOTION FOR ENFORCEMENT OF AGREEMENT TO  
TEMPORARY RESTRAINING ORDER**

Plaintiff Inland Family Practice Center, LLC (“Inland” or “Plaintiff”), respectfully moves this Court to enforce the parties’ agreement and enter an Order against Defendant Alex M. Azar, II, Secretary (“Secretary”) of the United States Department of Health and Human Services (“HHS”), immediately enjoining Defendant and any persons, agencies, or entities in active concert or participation with Defendant, from withholding, recouping, offsetting, or otherwise failing to pay Inland Family Practice Center, LLC any current or future Medicare receivables.

In support of this Motion, Plaintiff would show the following:

1. Plaintiff filed in this matter its Emergency Motion for Hearing and Issuance of a Temporary Restraining Order and Injunctive Relief [5] on Tuesday, August 7, 2018.
2. Counsel for the parties attended a telephone conference with Judge Keith Starrett to discuss the Emergency motion on Monday, August 13, 2018.
3. At the August 13 teleconference, counsel for Defendants represented to the Court that Defendants would stop recoupment of Plaintiff’s Medicare funds beginning Tuesday August

14, 2018 and continuing until Plaintiff's motion for a preliminary injunction could be heard by the Court.

4. On Tuesday, August 14, the Court entered an Order [11] stating that "[a]ccording to the representations of the parties in the teleconference held on August 13, 2018, Plaintiff's request for a temporary restraining order is moot." Said Order also set the hearing on the preliminary injunction to be held in early September, with a firm date to be set later. The Court subsequently on August 16 set the hearing date for September 4, 2018.

5. As of this date, however, contrary to their representations to the Court, Defendants continue to recoup 100% of Plaintiff's Medicare receivables. Due to Defendants' failure to enact the stay of recoupment as it represented to the Court, Plaintiff's request for a temporary restraining order is no longer moot. Rather, it is imperative.

6. Plaintiff hereby seeks an Order from the Court to enforce the parties' agreement. Plaintiff further asks that Defendant be ordered to pay/refund to Plaintiff whatever sums have been recouped from Plaintiff's Medicare receivables since August 14, 2018. Plaintiff further asks that the Court grant Plaintiff its attorneys' fees incurred in bringing this Motion to enforce the agreement to stay recoupment effective August 14 as Defendants represented to the Court they would do.

**WHEREFORE,** Plaintiff respectfully prays that this Court issue and enforce an Order:

- a. prohibiting Defendant, and any persons, agencies, or entities in active concert or participation with Defendant, from withholding, recouping, offsetting, or otherwise failing to pay Inland Family Practice Center, LLC any current or future Medicare receivables;
- b. stopping the imposition of any further interest against Inland in this matter prior to completion of the appeal process;

- c. ordering Defendants to reimburse Plaintiff for all sums recouped from August 14, 2018 forward;
- d. awarding attorneys' fees incurred by Plaintiff as a result of Defendants' failure to stay recoupment effective August 14 to Plaintiff; and
- e. granting such other and further relief this Court deems proper and just.

Dated: August 20, 2018

Respectfully Submitted,

**INLAND FAMILY PRACTICE CENTER, LLC**

By: /s/ Philip J. Chapman

RANDALL E. DAY, III (MSB #9722)

JULIE B. MITCHELL (MSB #10064)

PHILIP J. CHAPMAN (MSB #101559)

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*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

I, Philip J. Chapman, attorney for the Plaintiff, do hereby certify that on August 20, 2018 I electronically filed the foregoing with the Clerk of the Court using the ECF System, and I hereby certify that I have sent the document to the following non-ECF participant via electronic mail:

Greg Bongiovanni  
Office of the General Counsel  
US Dep't of Health and Human Services  
Email: [Greg.Bongiovanni@hhs.gov](mailto:Greg.Bongiovanni@hhs.gov)

THIS, the 20th day of August, 2018.

/s/ Philip J. Chapman  
Philip J. Chapman